

The Law Office of Rachel S. Blumenfeld PLLC  
26 Court Street, Suite 2220  
Brooklyn, New York 11242  
Tel. (718) 858-9600  
Fax. (718) 858-9601  
rblmnf@aol.com

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

\_\_\_\_\_-X

In re,

Chapter 11

Tompkins Willoughby LLC,

Case No: 1-19-44729-nhl

Debtor & Debtor-in-Possession.

\_\_\_\_\_-X

**TOMPKINS WILLOUGHBY LLC'S  
RESPONSE TO SHOW CAUSE ORDERS**

**TO: THE HONORABLE NANCY HERSHEY LORD,  
UNITED STATES BANKRUPTCY JUDGE:**

Tompkins Willoughby LLC, the Debtor and Debtor-in-Possession ("Debtor") in the above referenced case through their undersigned attorneys, the Law Office of Rachel S. Blumenfeld PLLC files this Response to this Court's three Show Cause Orders of (1) August 23, 2019 (Dkt # 15); (2) Show Cause Order of August 26, 2019 (Dkt #19); and (3) Show Cause Order of August 26, 2019 (Dkt #20). The undersigned counsel was retained in this case on August 28, 2019<sup>1</sup>, and the hearing on the Court's Show Cause Orders are scheduled for August 29, 2019 at 3 p.m.

**OVERVIEW**

1. The first time the Debtor became aware that a foreclosure sale was scheduled for August 1, 2019, was a few hours before the sale, when a friend advised the Debtor that his property

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<sup>1</sup> The Debtor contacted the undersigned on Friday August 23, 2019 requesting an immediate meeting, however counsel was undergoing a procure on August 23, 2019 and could not meet. The Debtor met with the undersigned on August 26, 2019, and retained the undersigned on August 28, 2019.

was listed on a public site for public auction. In fact, the Notice of Settlement attached to Albany Avenue Partner LLC's Motion for Relief from Stay/Affidavit of Alan J. Waintraub, Esq., filed on August 16, 2019, ECF Docket No. 13, attaches a Notice of Settlement of the Judgment of Foreclosure and Sale and for service on the Debtor only lists: "Tompkins Willioughby LLC, Defendant, c/o Secretary of State, 99 Washington Avenue, Albany, New York 12231." The Debtor did not receiving Notice or mailing and was unaware of the sale or any action taking place against his property until the day of the foreclosure sale.

2. The Debtor did not file its bankruptcy petition in bad faith, and in fact the Debtor did not file the bankruptcy petition by himself. The Debtor paid and hired a petition preparer, Mr. Steven Peters ("Mr. Peters") whom filled out the Affirmation of Filers with his address at 150 Propsect Avenue, Valhalla, New York 10595. *See* Exhibit "A" Affirmation of Filer (the "Affirmation of Filer"). While the Affirmation of Filer states that Mr. Peters was not paid, he was in fact paid \$1,200 in addition to the \$1,717 filing fee from the Debtor. *See* Attached Exhibit "B" proof of the \$1,200 fee to Mr. Peters, and the \$1,717 my money order.

3. The Debtor did not fill out any of the paperwork that was filed with the Court. Everything was filled out by Mr. Peters. The only thing the Debtor did through its President Leizer Klar was sign the petition where Mr. Peters instructed him to sign.

4. It was unknown to the Debtor, that Mr. Peters made errors and/or provided false information in the paperwork. Mr. Peters compounded those errors by taking listing the Law Firm of Abraham Kappel as counsel for the Debtor. The Debtor has never met Mr. Kappel, nor did the Debtor hire Mr. Kappel to act as counsel for him in this matter.

5. The Debtor and Leizer Klar apologizes to the Court, the Debtor, to all other parties-in-interest and their counsel for his non appearance at the August 22, 2019 hearing. The Debtor was contacted by telephone and stated he would arrive in Court estimating he would arrive by 4:00 p.m. Unfortunately the Debtor arrived at the Courthouse at 4:35 p.m., and the doors were locked and he could not enter the building.

6. Inasmuch as the Debtor's errors were unintentional and not the Debtor's fault, nor were they under his control, the Debtor respectfully requests an opportunity to reorganize his debts under Chapter 11 of the Bankruptcy Code.

7. The Debtor never hired the Law Firm of Abraham Kappel and therefore the Debtor does not oppose the entry of an Order authorizing the withdrawal as counsel of the Law Firm of Abraham Kappel. The Debtor believes the instant case should not be dismissed for failure to be represented by counsel as the Debtor has now retained The Law Office of Rachel S. Blumenfeld PLLC to represent them.

### **CONCLUSION**

8. Mr. Leizer Klar and the Debtor understand the seriousness of the situation but respectfully requests that under the circumstances herein that there was no bad faith by the Debtor and/or Mr. Leizer Klar and that the Debtor be allowed the opportunity to reorganize to save its property.

Dated: August 28, 2019  
Brooklyn, New York

By:  
THE LAW OFFICE OF RACHEL BLUMENFELD  
/s/ Rachel Blumenfeld  
Rachel S. Blumenfeld (RB-1458)

Attorney for Debtor & Debtor in Possession  
TOMPKINS WILLOUGHBY LLC  
26 Court Street, Suite 2220  
Brooklyn, New York 11242  
(718) 858-9600